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Message Text

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ACTION IO-10

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E.O. 11652: N/A
TAGS: IUOTO
SUBJECT: CONSULTATION WITH WTO SYG RE USG VIEWS ON STATUTES, IUOTO DISSOLUTION

REF: A) STATE 262530; B) STATE 262375; C) STATE 262531; D) STATE 262532

1. MISSION OFFICER CALLED ON WTO SYG LONATI ON DEC 2 TO COMMUNICATE DEPT'S VIEWS ON IUOTO DISSOLUTION AND ON WTO STATUTES AS OULINED IN REFTELS. OFFICER LEFT TWO AIDE MEMOIRES, ONE GIVING US INTERPRETATION OF ARTICLE 42 OF TWO STATUTES AND ELIGIBILITY FOR COUNCIL ELECTIONS, THE OTHER LISTING US VIEWS ON IMPLEMENTATION OF TWO STATUTES. COPIES OF AIDE MEMOIRES AIRPOUCHED TO IO/TRC.

2. MISSION AS WELL AS SYG LONATI HIGHLY APPRECIATIVE OF DEPT'S FULL RESPONSES TO LATTER'S QUESTION CONTAINED IN REFTELS. THERE FOLLOWS MAIN POINTS RAISED DURING INTERVIEW:

3. ARTICLE 42: SYG LONATI HAS MADE COMPLETE TURNAROUND ON HIS POSITION RE IMPLICATIONS OF ARTICLE 42 FOR COUNCIL CANDIDACY. ON LEGAL ADVICE--PRESUMABLY FROM PROFESSOR MICHEL VIRALLY, PROFESSOR OF LAW, UNIVERSITY OF GENEVA AND ECOLE DES HAUTS ETUDES INTERNATIONALES, GENEVA--LONATI NOW RECOGNIZES THAT ANY MEMBER OF TWO, BE THAT STATE MEMBER THROUGH DEPOSIT OF RATIFICATION PAPERS OR THROUGH UTILIZATION OF ARTICLE 42, HAS "FULL RIGHTS AND OBLIGATIONS" HENCE IS ELIGIBLE TO RUN FOR ANY OFFICE. THERE CANNOT BE, HE RECOGNIZED, TWO CATEGORIES
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OF MEMBERS AT THE FIRST ASSEMBLY, RATIFICATION MEMBERS AND

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ARTICLE 42 MEMBERS. THEREFORE, THE SYG RECOGNIZES THAT THE US AND OTHER ARTICLE 42 MEMBERS ARE ELIGIBLE TO RUN AND TO VOTE FOR MEMBERS OF THE COUNCIL. HE RECOGNIZED, HOWEVER, THAT FOR ELECTORAL PURPOSES ARTICLE 42 MEMBERS MIGHT FACE SOME PROBLEMS AND SUGGESTED CONSIDERATION BE GIVEN TO PROPOSED "STATEMENTS OF INTENTION TO RATIFY THE STATUTES" BY THOSE SEEKING TO BE ELECTED TO THE COUNCIL FOR FOUR YEARS. HE DID NOT REGARD THIS STATEMENT AS OBLIGATORY,HOWEVER.

4. IUOTO: LONATI, ON LEGAL ADVICE AGAIN, STRESSED, IN REBUTTING DEPARTMENT'S VIEWS ABOUT DISSOLUTION OF IUOTO (REF A) THAT IUOTO WAS NOT BEING "DISSOLVED" BUT IN WORDS OF ARTICLE 1 OF WTO STATUTES WAS BEING "TRANSFORMED" INTO WTO. HE NOTED WORDING OF ARTICLE 44, "WHEN THE PRESENT STATUTES COME INTO FORCE, THE RIGHTS AND OBLIGATIONS OF IUOTO SHALL BE TRANSFERRED TO THE ORGANIZATION." HERE THE KEY WORD IS "TRANSFERRED." AT NO POINT, HE STRESSED, DO THE WTO STATUTES TALK ABOUT "DISSOLUTION" OF THE IUOTO. IN ADDITION HE RECALLED THAT THE IOUTO EXTRAORDINARY GENERAL ASSEMBLY HELD IN MEXICO CITY IN SEPTEMBER 1970 HAD DECIDED BY 2/3S VOTE TO "TRANSFORM" IUOTO INTO AN INTERGOVERNMENTAL ORGANIZATION.

5. LONATI SAID HE WILL ASK THE IUOTO EXECUTIVE COMMITTEE IN PANAMA CITY NEXT WEEK TO "TAKE NOTE" OF THE SITUATION THAT HAS OCCURRED AS A RESULT OF ARTICLES 1 AND 44 OF THE WTO STATUTES HAVING COME INTO EFFECT AS OF NOVEMBER 1 AND RECOGNIZE THAT IUOTO HAS THEREFORE BEEN TRANSFORMED INTO THE WTO.

6. STRESSING THE CONTINUITY OF IUOTO THROUGH THE WTO, LONATI NOTED THAT HE HAD SENT TO ALL IUOTO MEMBERS BY REGISTERED MAIL ON NOVEMBER 28, 1974, HIS ANNUAL ASSESSMENT NOTICE ON IUOTO LETTERHEAD. FOR THE USE OF THE US DEL TO THE IUOTO EXECUTIVE COMMITTEE PRIOR TO THEIR DEPARTURE FOR PANAMA CITY MEETING WHICH CONVENES DEC 9, FULL TEXT OF THIS LETTER FOLLOWS: BEGIN TEXT.
I HAVE THE HONOR TO ENCLOSE A STATEMENT OF ACCOUNT SHOWING THE AMOUNT PAYABLE BY YOUR ORGANIZATION FOR 1975, AS ESTABLISHED BY THE XXIIIRD GENERAL ASSEMBLY.
I ALSO ENCLOSE AN EXTRACT FROM RESOLUTION A/06/XXIII CONTAINING THE GENERAL ASSEMBLY'S ADMINISTRATIVE DECISION ON THIS SUBJECT AND SHOWING THE AMOUNT PAYABLE BY EACH COUNTRY ACCORDING TO THE UNCLASSIFIED

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CONTRIBUTION GROUP TO WHICH IT WAS ASSIGNED.
THE SERVICES WHICH IUOTO MEMBERS ARE ENTITLED TO EXPECT DURING 1975 WILL BE SUPPLIED IN PURSUANCE OF THE DECISIONS TAKEN BY THE GENERAL ASSEMBLY AT CARACAS.
IN THIS CONNECTION, ALLOW ME TO DRAW YOUR ATTENTION TO THE FACT THAT MEMBERS' CONTRIBUTIONS ARE TO BE PAID AS SOON AS POSSIBLE SO AS TO AVOID THE CASH DIFFICULTIES WHICH HAVE SO OFTEN FACED THE SECRETARIAT BECAUSE OF THE DELAY OF

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CERTAIN MEMBERS IN PAYING THEIR CONTRIBUTIONS.
I AM SURE THAT THIS MATTER WILL RECEIVE YOUR CLOSEST ATTENTION AND THANK YOU IN ADVANCE FOR TREATING IT AS URGENT AND DISCHARGING YOUR FINANCIAL OBLIGATIONS TO THE UNION AT THE EARLIEST POSSIBLE DATE. END TEXT.

7. LONATI SAID HE WOULD ASSURE IUOTO EXECUTIVE COMMITTEE THAT THE WTO WILL PROVIDE THE SERVICES AND ADMINISTER THE WORK PROGRAM VOTED BY THE IUOTO GENERAL ASSEMBLY AT CARACAS IN 1973. TO DO THIS, IT IS IMPERATIVE, HE STRESSED, THAT ALL IUOTO MEMBERS PAY THEIR DUES FOR 1975.

8. IN THIS CONNECTION LONATI SAID HE PLANNED TO CUT ONE APPROVED IUOTO PROGRAM COSTING 60,000 SWISS FRANCS; NAMELY, THE PLANNED STUDY OF THE POTENTIALITY OF LATIN AMERICAN BEACHES FOR TOURISM.

9. TO CARRY OUT THE IOUTO PROGRAM, THE WTO WILL CARRY ON THE IUOTO EXECUTIVE SECRETARIAT AND REGIONAL COMMISSIONS UNTIL SUCH TIME AS THE WTO GENERAL ASSEMBLY CHANGES THEM.

10. LONATI SAID, FINALLY, THAT AS FAR AS HE WAS CONCERNED THE PANAMA CITY MEETING (99TH) WOULD BE THE LAST MEETING OF THE IUOTO EXECUTIVE COMMITTEE. HE SAW NO NEED, IN VIEW OF HIS INTERPRETATION OF THE PRECEDENCE OF WTO STATUTES OVER THE IUOTO STATUTES AND THE TRANSFORMATION OF IUOTO INTO WTO FOR ANY MEETING OF THE IUOTO GENERAL ASSEMBLY TO BE CONVENED UNDER ARTICLE 19 OF THE IUOTO STATUTES TO DISSOLVE THE IUOTO.

11. THE QUESTION OF WHAT HAPPENS TO THE 28 IUOTO MEMBERS WHO HAVE NEITHER DEPOSITED THEIR RATIFICATION OF THE WTO STATUTES NOR FORMALLY INDICATED THEIR WISH TO UTILIZE ARTICLE 42 FOR MEMBERSHIP DURING THE FIRST YEAR OF WTO IS STILL UNRESOLVED.
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12. WTO FINANCIAL RULES: WITH FURTHER REFERENCE TO THE TRANSITION FROM IUOTO TO WTO AND THE APPLICABILITY OF WTO FINANCIAL RULES 9 AND 12, LONATI SAID THAT HE FELT SOME FLEXIBILITY COULD BE APPLIED TO RULE 9 APPLICATION BUT THAT RULE 12 WOULD HAVE TO BE COMPLIED WITH STRICTLY. AS A RESULT THE FINAL SESSION OF THE FIRST WTO ASSEMBLY OR THE EXTRAORDINARY ASSEMBLY WOULD HAVE TO ACT ON THE BUDGET PRIOR TO JUNE 30, 1975, IF THE NEW WTO PROGRAM AND BUDGET IS TO GO INTO EFFECT ON JANUARY 1, 1976.

13. WTO ASSOCIATE MEMBERS: THIS QUESTION SYG LEAVES TO THE THREE MEMBER STATES INVOLVED; I.E., US FOR PUERTO RICO, UNITED KINGDOM FOR GIBRALTAR AND HONG KONG; NETHERLANDS FOR NETHERLANDS ANTILLES.

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14. WTO AFFILIATE MEMBERS: SYG WILL SEND NOTE TO ALL IUOTO AFFILIATE MEMBERS (AS OF 1970) CALLING THEIR ATTENTION TO PROVISIONS OF ARTICLE 7 PARA 2 OF THE WTO STATUTES AND INDICATING THAT THEY CAN JOIN WTO AS AFFILIATE MEMBERS WITHOUT REQUIREMENT OF VOTE BUT THAT HE IS AS YET UNABLE TO INFORM THEM OF THE FEE THEY WILL BE EXPECTED TO PAY FOR THEIR MEMBERSHIP AS THAT DETERMINATION CAN ONLY BE MADE BY THE FIRST ASSEMBLY OF WTO. HE SAID THAT MR. BARBALOSSI (FRANCE), PRESENT CHAIRMAN OF IUOTO AFFILIATED MEMBERS COMMITTEE, HAS PREPARED A QUESTIONNAIRE ANALYSIS FOR PRESENTATION TO FIRST WTO ASSEMBLY ON QUESTION OF WTO AFFILIATE MEMBERS. LONATI HOPED THE WTO ASSEMBLY WOULD APPOINT AN AD HOC COMMITTEE TO STUDY THE QUESTION OF AFFILIATE MEMBERS AND THEIR RIGHTS AS WELL AS OBLIGATIONS. HE NOTED THAT ARTICLE 7, PARA 2 SPOKE MAINLY OF THE OBLIGATIONS OF AFFILIATE MEMBERS.

15. USE OF IUOTO FUNDS: LONATI'S INTERPRETATION OF IUOTO-WTO RELATIONSHIP IN TRANSITION IS THAT IF WTO ASSEMBLY ACCEPTS RIGHTS AND OBLIGATIONS OF IUOTO IT WILL HAVE TO CARRY ON THE MACHINERY OF IUOTO TO CARRY OUT THE OBLIGATIONS IMPOSED BY THE IUOTO GENERAL ASSEMBLY AT CARACAS IN 1973 AND IN TURN WILL HAVE THE RIGHT TO IUOTO FUNDS TO CARRY OUT THAT OBLIGATION.

16. COMMENT: A GREAT DEAL OF FLEXIBILITY IS GOING TO HAVE TO BE SHOWN IN APPROACHING THE TRANSFORMATION OF IUOTO INTO WTO FOR THE TRANSITION HAS OBVIOUSLY NOT BEEN THOUGHT OUT IN DETAIL, CONSEQUENTLY, ADHERENCE TO THE LETTER OF THE IUOTO
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STATUTES COULD MAKE IT IMPOSSIBLE FOR WTO TO ACT IN TIME TO COMPLY WITH ITW OWN STATUTORY REQUIREMENTS.
IT WOULD SEEM THAT WHEREVER IUOTO STATUTES CAN BE SET ASIDE ON THE ASSUMPTION ARTICLES 1 AND 44 OF THE WTO TAKE PRECEDENCE THIS SHOULD BE DONE.DALE

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